## REMARKS/ARGUMENTS

In the above set of claims, Claim 45 is newly added, and is supported throughout the originally-filed specification, including, for example, page 16 lines 4-6.

In the Office Action dated December 12, 2005, the Examiner rejected Claims 29-33 under 35 USC §101 for being directed to non-statutory subject matter. In the remarks at the bottom of page 2 and most of page 3 of the Office Action, the Examiner cited to MPEP 2106(II)(A). In addition the Examiner stated at the bottom of page 3 that Claim 29's apparatus includes no physical structure of the machine in terms of its hardware or hardware and software combination. This rejection is respectfully traversed as discussed below.

The first paragraph of MPEP 2106(II)(A) requires a claimed invention as a whole to accomplish a practical application, so that patent protection is limited to inventions that possess "real world" value. Applicants respectfully submit that Claim 29 accomplishes copying of items. Specifically, after Claim 29's apparatus is used, the result is there are two sets of items, items being input and copies being output. Note that Claim 29's items can be files and/or directories. Accordingly, Claim 29's apparatus changes the "real world" because after its use, there are two sets of items in storage. Hence Claim 29's apparatus does not represent just an idea or a concept or a starting point for future investigation or research.

Furthermore, the complete disclosure of the current patent application provides an indication of the practical application, i.e. why the invention is useful, namely in archiving as stated in page 2, lines 29-30 and page 4 lines 14-15 of the specification. Archiving is commonly used in the prior art as described in the specification at page 1 lines 4-9. The real world result, namely possessing two sets of items is useful, for example, when a file is inadvertently lost (e.g. due to program error or human error) from a first set, such file can be restored from the second set. Hence, Applicants respectfully submit that Claim 29 satisfies the first paragraph requirements of MPEP 2106(II)(A).

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The second paragraph of MPEP 2106(II)(A) requires significant functionality to be present in a claimed invention so as to satisfy the useful result aspect of the practical application requirement. Merely claiming nonfunctional descriptive material, such as a word processing file, is not eligible for patenting. Claim 29's apparatus requires means for

spawning and means for copying both of which are functional limitations. In fact both these limitations are means-plus-function limitations under 35 USC §112, paragraph 6. Accordingly, Claim 29 is not merely claiming nonfunctional descriptive material. Instead, Claim 29's apparatus produces a "useful, concrete and tangible" result because as noted above after its use there are two sets of items, namely original items input to the apparatus and copies that the apparatus generates. Hence, Applicants respectfully submit that Claim 29 satisfies the second paragraph requirements of MPEP 2106(II)(A).

The Examiner's remark at the bottom of page 3 and top of page 4 of the Office Action is now addressed as follows. Claim 29's apparatus requires means for spawning and means for copying, and both these "means" of Claim 29 are means-plus-function limitations under 35 USC §112, paragraph 6. Accordingly, these "means" limitations are to be interpreted to cover at least the corresponding structures in Applicant's specification. In this context, Applicant respectfully draws the Examiner's attention to the following quotation from MPEP 2106 (II)(C) (emphasis added):

> Office personnel must always remember to use the perspective of one of ordinary skill in the art. Claims and disclosures are **not to be evaluated in a vacuum**. If elements of an invention are well known in the art, the applicant does not have to provide a disclosure that describes those elements. In such a case the elements will be construed as encompassing any and every art-recognized hardware or combination of hardware and software technique for implementing the defined requisite functionalities.
>
> ...
>
> Where means plus function language is used to define the characteristics of a machine or manufacture invention, claim limitations must be interpreted to read on only the **structures or materials disclosed in the specification** and "equivalents thereof." (Two *en banc* decisions of the Federal Circuit have made clear that the Office is to interpret means plus function language according to 35 U.S.C. 112, sixth paragraph. In the first, *In re Donaldson*, 16 F.3d 1189, 1193, 29 USPQ2d 1845, 1848 (Fed. Cir. 1994), the court held:
>
> The plain and unambiguous meaning of paragraph six is that one construing means-plus-function language in a claim must look to the specification and interpret that language in light of the corresponding structure, material, or acts described therein, and equivalents thereof, to the extent that the specification provides such disclosure. **Paragraph six does not state or even suggest that the PTO is exempt from this mandate,** and there is no legislative history indicating that Congress intended that the PTO should be. Thus, this court must accept the plain and precise language of paragraph six.

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> Consistent with *Donaldson*, in the second decision, *In re Alappat*, 33 F.3d 1526, 1540, 31 USPQ2d 1545, 1554 (Fed. Cir. 1994) (in banc), the Federal Circuit held:
>
> Given *Alappat*'s disclosure, it was error for the Board majority to interpret each of the means clauses in claim 15 so broadly as to "read on any and every means for performing the function" recited, as it said it was doing, and then to conclude that claim 15 is nothing more than a process claim wherein each means clause represents a step in that process. Contrary to suggestions by the Commissioner, this court's precedents do not support the Board's view that the particular apparatus claims at issue in this case may be viewed as nothing more than process claims.
>
> Disclosure may be express, implicit or inherent. Thus, at the outset, **Office personnel must attempt to correlate claimed means to elements set forth in the written description**. The written description includes the original specification and the drawings. Office personnel are to give the claimed means plus function limitations their broadest reasonable interpretation consistent with all corresponding structures or materials described in the specification and their equivalents including the manner in which the claimed functions are performed. See *Kemco Sales, Inc. v. Control Papers Company, Inc.*, 208 F.3d 1352, 54 USPQ2d 1308 (Fed. Cir. 2000). Further guidance in interpreting the scope of equivalents is provided in MPEP § 2181 through § 2186.

In view of the above-quoted text, it is clear that it is the Examiner's duty to correlate Claim 29's "means for spawning" and the "means for copying" to structures set forth in the Applicant's written description. However, the Examiner has not made this correlation. Specifically, Applicants traverse the Examiner's remark about Claim 29 being not "tangible" because the Examiner has merely identified the two "means" limitations, and did not further identify corresponding structures in the specification.

Applicant hereby requests the Examiner to make the above-required correlation in the next Office Action, i.e. the Examiner should cite the specific page and line number in Applicant's specification that correlates to the "means for spawning" and correlates to the "means for copying." If after the Examiner makes the required correlation, and then if the Examiner continues to believe that the specification's structures disclosed for the claimed means are not run by any computer or machine (as stated at the bottom of page 3 and top of page 4 of the Office Action), then the Examiner is requested to identify a specific page and line number in the Applicant's specification as to the basis for the Examiner's belief. Hence, the Examiner must cite to Applicant's specification for any Claim 29 rejection in future, to satisfy the Examiner's duty under 35 USC §112 paragraph 6.

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Moreover, Applicant hereby respectfully draws the Examiner's attention to Applicant's specification at page 4, line 15 which clearly describes a computer (such as an IBM PC or a Sun workstation). See also the specification at page 3 line 3 which describes a single processor, and alternatively two or more processors. Software that is illustrative of the programming for such processor(s) is described in the specification at page 12 et seq. Such embodiments of Applicant's invention cannot be ignored by the Examiner when correlating the claimed "means" to the specification.

If Applicant's specification provides insufficient structure under 35 USC §112 ¶6, then the Examiner is hereby respectfully requested to explain the reason in the next Office Action, i.e. what more must be described in Applicant's specification to satisfy the legal requirement for §112 ¶6 claims?

Finally, Applicants respectfully request the Examiner to take into account the following quotation from MPEP 2106 which provides two examples of §101 processes:

> Examples of this type of claimed statutory process include the following:
>
> - A computerized method of optimally controlling transfer, storage and retrieval of data between cache and hard disk storage devices such that the most frequently used data is readily available.
>
> - A method of controlling parallel processors to accomplish multi-tasking of several computing tasks to maximize computing efficiency. See, e.g., *In re Bernhart*, 417 F.2d 1395, 1400, 163 USPQ 611,616 (CCPA 1969).

Applicant respectfully notes that the above-described examples of (1) computerized transfer, storage and retrieval of data, and (2) controlling processors to accomplish multi-tasking are statutory processes even though both these examples describe activities that are performed wholly inside a computer. Hence, Applicant submits that an apparatus that combines (a) spawning means with (b) copying means is analogous (in §101 sense) to the above-described examples. For at least this reason, Applicant believes that Claim 29 is also statutory, and the Examiner's remark at the bottom of page 3 and top of page 4 of the Office Action should be withdrawn.

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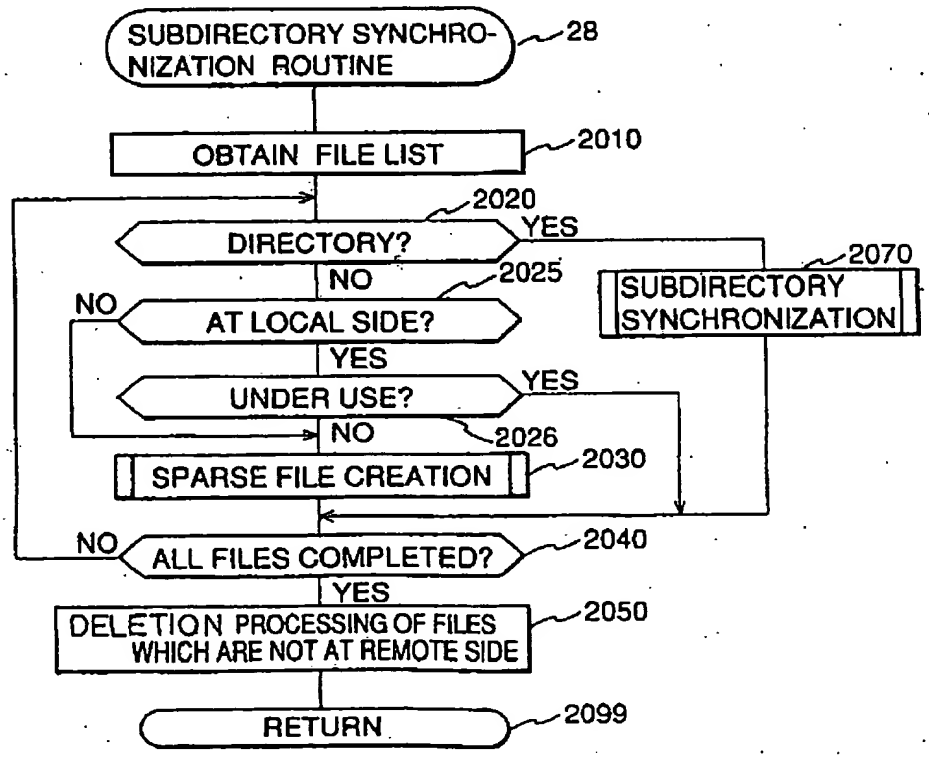
In the Office Action dated December 12, 2005, the Examiner rejected Claims 1 and 43 under §112, second paragraph for reciting the word "that". The Examiner explained that "Pronouns are not permitted, only what is being referred to by 'that' should be set

forth in the claim." Accordingly, both Claims 1 and 43 have been amended to eliminate the word "that". Support for the amendment is found throughout the specification, including, for example, page 2 line 29 to page 3 line 9. Hence, Applicant respectfully requests the Examiner to withdraw the §112 rejection of Claims 1 and 43.

At page 5 in the current Office Action, the Examiner rejected Claims 1, 4, 11, 19, 29-39 and 43-44 for being anticipated by US Patent 5,832,10. Note that this patent number appears to be an error. Applicant assumes that the Office Action meant to identify Ito's US Patent 5,832,510. Applicant respectfully notes that this same patent was cited by this same Examiner in the corresponding PCT application wherein arguments for and against patentability were discussed. The Examiner indicated consideration of these arguments by initialing on September 12, 2005, four items labeled 5-7 in a PTO-1449 that was first submitted by the undersigned on October 6, 2003. The Examiner has once again used this same US Patent 5,832,510 in the current Office Action, which is discussed next.

Ito's FIG. 20 cited by the Examiner is reproduced below.

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The steps shown in the above FIG. 20 from Ito's patent are described at column 20 lines 14-51 as follows.

> In step 2010, the file list beneath the directory which is received as an argument is obtained from the directory synchronization service routine 33 of the agent program 30 on the second information processing device. This list contains information on the name, the date and the size of each of the files and the directories.
>
> In the step 2020 and the subsequent steps, the files and the directories of the file list are processed one by one. In step 2020, it is judged whether the file concerned is a directory file. If the file concerned is a directory file, the subdirectory synchronizing routine 28 is recursively called. If the file concerned is a file, in step 2025, it is checked whether the file concerned has already existed in the corresponding mount path on the first information processing device 120. If the file concerned does not exist, a step 2030 is executed. On the other hand, if not so, a step 2026 is executed.
>
> In step 2026, it is searched whether the file concerned is registered in the copy file table 1700, and it is judged on the basis of the above search whether the file concerned is under use. If the file concerned is registered in the copy file table 1700, the file concerned is judged to be under use, and thus the process skips the sparse file making processing in step 2030. If the file concerned is not under use, the sparse file making routine 60 is called in step 2030 by using the name, the size and the date of the file as an argument to erase the content of the file concerned and set the file size and the file date.
>
> In step 2040, it is judged whether the synchronization of all the files of the file directory list which is obtained in step 2010 is finished, and the step 2020 and the subsequent steps are repeated until the synchronization is finished. When the synchronization of all the files is finished, it is checked whether the files or directories which do not exist in the file directory list exist in the directory concerned at a local side in step 2050. If the files or directories exist, all the files or directories are erased. Thereafter, the above processing is finished, and the process returns to the caller in step 2099.

As can be seen in FIG. 20, steps 2010-2050 are not illustrated any different from one another, except for steps 2070 and 2030 both of which are shown in FIG. 20 with vertical side bars. In the text, Ito teaches that both steps 2070 and 2030 invoke a routine (e.g. by making a function call). Specifically, notice that step 2070 uses the same words "subdirectory synchronization" as the title in block 28 in FIG. 20. Therefore, step 2070 is a recursive call to the same routine 28, whereas step 2030 is a call to another routine, namely routine 60 in Ito's FIG. 12. As both these steps 2070 and 2030 invoke routines, a

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skilled artisan would be led to believe that these steps as well as the remaining steps (in steps 2010-2050) are all performed within a single process, i.e. these steps are performed in a sequential manner, one after another.

Hence a **first** argument for the patentability of Claim 1 is that there appears to be no indication by Ito that a new process should be created in any of Ito's steps 2010-2050. In fact in the entire patent, Ito does not use the word "spawn" or its equivalent (e.g. "fork"), when a key word search is done thereon. Hence, there is no disclosure (or suggestion) whatsoever to spawn a new process as claimed, which is contrary to the Examiner's position as stated in the middle of page 5 of the current Office Action.

Note that Ito knows how to create new processes, and does so when necessary, as described, for example, in case of close demand for files managed by Ito's second file server program (called "different-type files") as stated in Ito's column 5, lines 33-34. The different-type files are described by Ito as being "files managed by the second file server program" (see column 5, lines 10-12). Hence, Ito may at most be interpreted to teach spawning for changed files when closed. Ito also describes a multiprocess that uses plural copy back routines 25 (see column 16 lines 4-5). Ito further describes that a directory synchronization routine 26 may be started as a new process (see column 13 lines 10-17). Ito's descriptions in column 16 and column 13 are reproduced below.

**column 16, lines 1-34**

This retry processing is needed for the following reasons. That is, the numbers of simultaneously-openable files which are permitted by the first OS 6b and the second OS 6c respectively are different from each other, and since plural copy back routines 25 are performed in a multiprocess, files whose number is larger than the number of the files which are opened through the file server program 9b are actually opened at the same time. If the open succeeds in step 613, the file handle number transmitted from the user process service routine 32 at the open time is stored into the remote file handle number 1605 of the node 1690 concerned of the file handle table 1600 in step 615. Subsequently, in step 620, the copy file table 1700 is searched to check whether the data of the demanded file have been already copied from the second information processing device 130 to the first information processing device 120. If the data have been already copied, a step 650 is executed. If the data have not yet been copied, a step 622 is executed.

In the steps 622 to 630, the data of the demanded file are copied from the second information processing device 130 onto the first information processing device

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120. First, in step 622, the open of the demanded file is instructed to the OS 6b of the first information processing device 120. If there is no file, a file is newly created. Subsequently, in step 625, the data of the file concerned are read out from the second information processing device 130. The read-out operation is performed through the user process service routine 32. The read-out data are written into the demanded file which is made a sparse file on the first information processing device 130 in step 626. In step 627, it is judged whether the copy of all the contents is completed. If it is not completed, the steps 625 to 627 are repetitively executed. In step 630, the close of the demanded file is instructed to the OS 6b of the first information processing device 120.

**column 13, lines 10-30**

In step 204, the directory synchronizing routine 26 is started as a new process, and a part of the directory structure on the magnetic disk 5c of the second information processing device 130 is reproduced on the magnetic disk 5b of the first information processing device 120 in accordance with the corresponding relationship which is set in the mount path table 1400. The respective processes are performed in parallel by the time slice function of the OS.

As the just-described teachings by Ito are unrelated to FIG. 20, a skilled artisan, on reviewing Ito's FIG. 20 and its description (quoted above) is likely to believe that steps 2070 and 2030 themselves are merely invocations of routines which do not involve a new process, because they are typically performed within the same process by use of a stack. Nothing in Ito's patent discloses creation of a new process in these two steps 2070 and 2030 which have vertical side bars (and a skilled artisan is unlikely to create a new process as doing so consumes additional resources). Hence a **second** argument for the patentability of Claim 1 over Ito's teachings is that nothing has been cited in the current Office Action which discloses (or suggests) use of process spawning in Ito's FIG. 20 which has been cited against Claim 1.

A **third** argument for the patentability of Claim 1 is that even assuming Ito teaches new processes are to be created in FIG. 20 (which Ito doesn't), then why should the process be created by spawning (as claimed) and why should the spawning be done in step 2070, i.e. what in Ito's patent discloses or suggests spawning in 2070? For example, why not modify Ito's method in FIG. 20 to spawn as many processes as there are items in Ito's list (note that Ito uses a change file list of items). As another example, why not divide Ito's list (assume N items) by P (if P is the user-specified number of processes), and each

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spawned process can copy N/P items in the list. In the absence of Ito's teachings, a skilled artisan would not necessarily proceed as recited in Claim 1.

A **fourth** argument for the patentability of Claim 1 is that even assuming Ito teaches spawning to be performed in FIG. 20, e.g. in step 2070 (instead of recursing), then why should spawning be limited to only step 2070 and not also performed in step 2030? As noted above, both these steps are shown with vertical side bars, i.e. they are both treated identically by Ito. There appears to be nothing special or unique in Ito's step 2070 as compared to Ito's step 2030. Therefore a skilled artisan would at most be motivated to spawn in both steps 2070 and 2030. There is no motivation or suggestion in Ito's patent, to treat steps 2030 and 2070 differently, specifically to spawn in one but not in the other.

A **fifth** argument for the patentability of Claim 1 is that even assuming Ito teaches that spawning is to be performed in only one of steps 2030 and 2070, there is no motivation or suggestion in Ito's patent, to explicitly condition spawning when the item being copied is a directory (i.e. step 2070). Note that the new process is to be "spawned" (as per Claim 1) conditionally depending on the nature of the item to be copied. There appears to be no motivation by Ito for why to spawn for a directory but directly copy without spawning for a file. Why shouldn't Ito's spawning be done in the reverse manner, i.e. spawn when the item being copied is a file and directly copy when the item is a directory?

For one or more of the above-discussed five different reasons, Applicant submits that Claim 1 is patentable over the teachings of Ito. Claims 4, 11, 19 and 34-39 depend from Claim 1 and are therefore patentable for at least the same reason(s) as Claim 1. Claims 29-33 and 43-45 are also patentable for at least reasons similar to those discussed above in reference to Claim 1.

If any of the above five arguments is persuasive, the Examiner is reminded of their duty to identify in the next Office Action which argument is persuasive, by referring specifically to the page(s) and line(s) of this current Amendment. On the other hand, If the Examiner continues to reject Claim 1 for anticipation by Ito, the Examiner is respectfully requested to respond to each of the above-described five arguments individually, to more fully and clearly explain their basis for the anticipation rejection. In this context, the Examiner is reminded of their duty as per MPEP §707.07(f) which states in pertinent part "Where the applicant traverses any rejection, the examiner should, if he or she repeats the

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rejection, take note of the applicant's argument and answer the substance of it." In particular, Applicant hereby requests the Examiner to explicitly address each of the above-described five problems, individually (one at a time).

In future if the Examiner considers rejecting Claim 1 for obviousness, Applicant respectfully draws the Examiner's attention to a benefit therein as a secondary consideration. Specifically, Claim 1 speeds up directory coping (by use of spawned processes), but without slowing down file copying (done directly). The Examiner is requested to take such benefit into account in deciding obviousness of Claim 1.

Note that Applicant does not agree with any of the Examiner's rejections of the remaining claims in the current Office Action. The following remarks highlight just a few examples of several errors and unsupportable positions taken by the Examiner (i.e. the following is not an exhaustive list).

Claim 4 stands rejected over Ito's teachings in column 9, lines 22-45, which are reproduced below.

> An operating system program (OS) 6a, a client program 7a for a file server program 9b, and an application program 8a are loaded onto a memory 2a of the client information processing device 110 from a magnetic disk 5a when the client information processing device 110 is activated. Further, an operating system program (OS) 6d, a client program 7d for a file server program 9c and an application program 8d are loaded from a magnetic disk 5d into a memory 2d of the client information processing device 140 when the client information processing device 140 is activated.
>
> A gateway program 20, an operating system (OS) 6b and a first file server program 9b are loaded from a magnetic disk 5b into a memory 2b of the first server information processing device 120 when the first server information processing device 120 is activated. Further, an agent program 30, an operating system (OS) 6c and a second file server program 9c are loaded from a magnetic disk 5c into a memory 2c of the second server information processing device 130 when the second server information processing device 130 is activated. These programs can be stored on a storage medium such as a hard disk device, a floppy disk device or the like from/into which information can be read/written by a computer.

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The above-quoted text from Ito merely teaches that certain programs are loaded from disk into memory. There is no disclosure whatsoever for comparing the number of copying processes with a limit. Moreover, there is no disclosure whatsoever for waiting if the

number of copying processes is greater than or equal to the limit. Instead, Ito teaches in the above-quoted text that several processes (none of which appear to be similar to each other) are loaded into memory, without any reference to the number of processes being started.

At the bottom of page 5 of the Office Action the Examiner explained the relevance of the above-quoted text from Ito's patent by stating in parenthesis that "storage space is decided before backup". Applicant respectfully traverses this statement because it is not based on any prior art reference, i.e. an unsupported statement by the Examiner.

Even assuming the Examiner's statement is found in Ito's patent, it appears to have no relevance. Specifically, Ito's storage space appears to have no relevance to the number processes in Ito's patent. The Examiner did not identify what, if any, relation is there between storage space and process limit in Ito's patent. In the absence of such a relationship, why should Ito's limit on storage space impose a limit on the number of processes that can be spawned? Hence Claim 4 is patentable over Ito for at least these additional reason.

If the Examiner continues this rejection in the next Office Action, the Examiner is hereby respectfully requested to explain in further detail as how does storage space decided before backup cause Ito to compare the current number of copying processes against a limit and what causes Ito to wait ? The Examiner must further explain their basis for the anticipation rejection of Claim 4 as per MPEP §707.07(f).

Claim 11 stands rejected over Ito's teachings in column 9, lines 22-45, which are reproduced above in reference to Claim 4's rejection and further in view of Ito's teachings in column 12, lines 46-65 which are reproduced below.

> FIG. 17 shows a copy file table 1700 indicating information on files whose data are temporarily copied from the second information processing device to the first information processing device. The copy file table 1700 comprises a head pointer 1701 indicating a first node, and plural nodes 1790 each corresponding to each file as described above. Each node 1790 includes a pointer 1702 indicating a subsequent node, a file name 1703 containing a path name on the first information processing device 120, a read open number 1704 indicating the number of times the files has been opened in a read mode on the first information processing device 120, a write open number 1705 indicating the number which is opened for the file concerned in a write mode on the first information processing device 120, a copy back flag 1706 indicating that the file concerned is copied back to the

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> second information processing device 130, an open waiting flag 1707 indicating that there is a process which is waiting for the opening of the file concerned, and a deletion waiting flag 1708 indicating that there is a process which is waiting for the deletion of the file concerned.

This text from column 9, lines 22-45 and the earlier-quoted text from column 9, lines 22-45, from Ito teaches loading of programs from disk into memory and use of a copy file table on files whose data are temporarily copied between two devices. There is no disclosure by Ito for "locking" of temporary buffers and use of "direct memory access (DMA) process". Hence Claim 11 is patentable over Ito for at least this additional reason.

If the Examiner continues this rejection in the next Office Action, the Examiner is hereby respectfully requested to explain in further detail as how does loading of programs and use of a file table anticipate "locking" and "DMA" ? The Examiner must fully explain the basis for anticipation rejection of Claim 11 as per MPEP §707.07(f).

Claim 19 stands rejected over Ito's teachings in FIG. 20, acts 2020-2040 and column 20, lines 14-51, which are reproduced above in reference to Claim 1's rejection. At most Ito teaches in act 2020 to check on the "type" of the item to find out whether the item is a directory, e.g. by checking the extension of the item's name. But nothing whatsoever in this cited text and drawing discloses or suggests anything about a current directory and a parent directory. Checking for such directories requires checking of the name itself, by checking if the directory is a current directory or a parent directory. As will be apparent to the skilled artisan, checking an item's extension is different from checking the item's name and doing one doesn't anticipate doing the other. Claim 19 is therefore patentable over Ito for at least this additional reason.

If the Examiner continues this rejection in the next Office Action, the Examiner is hereby respectfully requested to explain in further detail as how does checking whether an item is a directory (i.e. type checking) disclose or suggest checking if the directory is a current directory or a parent directory (i.e. name checking) ? The Examiner must fully explain the basis for anticipation rejection of Claim 19 as per MPEP §707.07(f).

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Claim 30 stands rejected over Ito's teachings in column 9, lines 22-45 which have been reproduced above in reference to Claim 4 rejection, and column 12 lines 46-65, which are reproduced above in reference to Claim 11 rejection. However, the undersigned

is unable to find in these cited texts of Ito's patent any disclosure or suggestion for use of an email message as recited in Claim 30. In fact, neither the word "email" nor the word "message" is found in the entire disclosure by Ito.

Moreover, Ito states that the method of FIG. 20 simply returns to the caller in step 2099 (see column 20 line 51) without any notifications to the user. At most Ito's method of FIG. 20 may be modified to use an "error code" but Ito doesn't further state what is done with the code (see column 17 line 16). So why would anyone think of sending an email message in Ito's method of FIG. 20? Claim 30 is therefore patentable over Ito for at least these additional reasons.

If the Examiner continues this rejection in the next Office Action, the Examiner is hereby respectfully requested to explain in further detail as how does loading of programs from disk into memory (Ito's column 9, lines 22-45) and use of a copy file table on files whose data are temporarily copied (Ito's column 12 lines 46-65) disclose or suggest an email message ? The Examiner must fully explain the basis for anticipation rejection of Claim 30 as per MPEP §707.07(f).

Claim 31 stands rejected over Ito's teachings in column 9, lines 22-45 which have been reproduced above in reference to Claim 4 rejection. However, in these cited texts of Ito's patent there is nothing to suggest increasing a limit on a resource as per Claim 31.

Moreover, Ito fails to describe any difficulty to his copy method, caused by limits on resources. So why would anyone think of increasing resource limits in Ito's method of FIG. 20? Ito doesn't appear to recognize that increasing limits on resources (such as stack size, file size) speeds up copying, a benefit covered by Claim 31. Claim 31 is therefore patentable over Ito for at least these additional reasons.

If the Examiner continues this rejection in the next Office Action, the Examiner is hereby respectfully requested to explain in further detail as how does loading of programs from disk into memory (Ito's column 9, lines 22-45) disclose or suggest increasing a limit on a resource ? The Examiner must fully explain the basis for anticipation rejection of Claim 31 as per MPEP §707.07(f).

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Claim 33 stands rejected over Ito's teachings in column 16, lines 1-34 and column 13 lines 10-30 which are reproduced above in reference to the second argument for patentability of Claim 1. In these cited texts of Ito's patent, there is no disclosure or

suggestion whatsoever to check if the item is a link to itself as recited in Claim 33. In view of Ito's complete silence on self-referencing links, Claim 33 is patentable for at least this additional reason.

If the Examiner continues this rejection in the next Office Action, the Examiner is hereby respectfully requested to explain in further detail as how does Ito's retry processing and copying of demanded file and directory synchronizing routine disclose or suggest increasing self-referencing links? The Examiner must fully explain the basis for anticipation rejection of Claim 33 as per MPEP §707.07(f).

Claim 38 stands rejected over Ito's teachings in FIG. 20, acts 2020-2040, and column 20 lines 14-51 which have reproduced above in reference to the first argument for patentability of Claim 1. In these cited texts of Ito's patent, the only list being discussed by Ito is a file list that is of items beneath the directory which is received as an argument. There is no disclosure or suggestion whatsoever to check another list, of names to be *excluded*, as recited in Claim 38. In view of Ito's complete silence on excluded lists, Claim 38 is patentable for at least this additional reason.

If the Examiner continues this rejection in the next Office Action, the Examiner is hereby respectfully requested to explain in further detail as how does a list of items to be copied disclose or suggest a list of items to be excluded? The Examiner must fully explain the basis for anticipation rejection of Claim 38 as per MPEP §707.07(f).

If the Examiner allows any claims, Applicant requests the Examiner to consider allowance of **withdrawn** claims, if they contain limitations that permit allowance.

In view of the above remarks, Applicant submits that all pending claims are in form for allowance and allowance thereof is respectfully requested. Should there be any questions concerning this paper, please call the undersigned at (408) 982-8203.

**CERTIFICATE OF FACSIMILE TRANSMISSION**

I hereby certify that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark Office to the fax number 571-273-8300 on March 13, 2006.

S. Omkar — March 13, 2006
Attorney for Applicant(s) — Date of Signature

Respectfully submitted,

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